

## Hugh van Swearingen

SENATE JUDICIARY  
CLERK NO. 16  
DATE 2/9/11  
SEN. BILL 55116

To: Montana Senate Judiciary Committee  
RE: Senate Bill 116 and Senate Bill 167  
February 9, 2011

We need to regulate physician-assisted suicide. Terminally ill Montana residents of sound mind have a *constitutional* right to end their lives by voluntarily taking lethal medicine prescribed by a physician for that purpose. Like it or not, that's the way it is. So now we need law to protect desperately sick people from being abused and at the same time protect the compassionate doctors who help them die.

Senate Bill 167 would give us the needed safeguards.

Senate Bill 116 would entirely prohibit assisted suicide. It equates physician-assisted death with mercy killing and euthanasia. But even if enacted, SB116 could not legally end assisted suicide. That's because of the district court decision two years ago, and never overturned, that physician-assisted dying is a *constitutional* right. That right, the court held, flows from two articles of Montana's constitution: the right to individual dignity and the right to privacy.

A *constitutional* right cannot be taken away by *legislative* enactment. So, unless SB167 becomes law, physician-assisted death will continue without regulation. That would be a terrible shame.

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